

## **REMARKS**

Claims 1-9 and 11-17 are now pending in the application. Claims 1, 2, 5-7, 9, and 11-17 are currently amended. Claim 10 is cancelled. No claims are newly added by this amendment. Support for the foregoing amendments can be found throughout the specification, drawings, and claims as originally filed. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

## **REJECTION UNDER 35 U.S.C. § 112**

Claims 1 and 11-17 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner questioned if the term “database device” is merely a database. Applicant has amended the claims to delete the term “device”. Thus, it is respectfully submitted that the rejection on this basis has been met.

The Examiner has also found certain claim language not to be clear, where Applicant uses the terms “that” and “those” in lines 7-8 and 26 of claim 1 and similarly in claims 11 and 15-17. Applicant has amended these claims to replace “that” and “those” with “the” and it is submitted that the claims are now more clear.

Finally, in claim 11, a specific recitation of “the third step” has been added to correct the missing antecedent basis indicated by the Examiner.

## **REJECTIONS UNDER 35 U.S.C. § 102 AND § 103**

Claims 11-13 and 15-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Oda (U.S. Pat. No. 6,542,624; "Oda").

Claims 1-5, 7 and 15-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oda in view of Tamai (U.S. Pub. No. 2001/0026632; "Tamai").

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Oda in view of Smith (U.S. Pub. No. 2002/0016839; "Smith"), and further in view of Bowers (U.S. Pat. No. 5,546,529; "Bowers").

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Flom (U.S. Pat. No. 4,641,349; "Flom").

Claims 9 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishida (U.S. Pat. No. 6,424,746; "Nishida").

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki (U.S. Pat. No. 6,614,919; "Suzuki").

These rejections are respectfully traversed.

In the claim amendments, each use of the phrase "pupil opening degree index" is replaced with "pupil diameter/iris diameter ratio". "Pupil diameter/iris diameter ratio" is the ratio of a pupil diameter to an iris diameter in an iris image, as recited in the original claim 10, which is now canceled.

During the previous interview, the Examiner agreed that Oda does not teach storing features from multiple iris images and indexing those features with pupil opening degree index. In this Office Action, the Examiner has cited Tamai for the feature

"storing features..." But for the feature "indexing those features...", the Examiner merely repeats the same argument. For example, regarding a second step of claim 11 the Examiner states:

*Oda, Col.4 Lines 11-13, the system verifies whether or not the photographed image of the eye exhibits biogenic responses, where typical biogenic responses are defined in Col.3 Lines 54-62. The "pupil opening index" references "the contraction of pupil diameter".*

Applicant maintains that the feature "indexing those features with pupil opening degree index" is not taught or suggested by Oda, as previously discussed. In addition, Applicant has limited the phrase "pupil opening degree index" to the specific expression "pupil diameter/iris diameter ratio".

In view of this difference between Oda and Applicant's claims, it is respectfully submitted that the claims fully distinguish Applicant's invention from Oda, which does not perform indexing of features with pupil opening degree index. Reconsideration and allowance of the claims is therefore respectfully requested.

The Examiner will note that an RCE has been concurrently filed herewith to allow the Examiner to fully consider the merits of Applicant's position.

**CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: September 3, 2009

By: /Gregory A. Stobbs/ \_\_\_\_\_  
Gregory A. Stobbs  
Reg. No. 28,764

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

GAS/dec

14880888.1